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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,122	02/04/2004	David S. Majkrzak	C136.12-0016	4277
7590	08/12/2004			
Nickolas E. Westman Westman, Champlin & Kelly Suite 1600 900 Second Avenue South Minneapolis, MN 55402-3319			EXAMINER TORRES, ALICIA M	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/772,122

Applicant(s)

MAJKRZAK, DAVID S.

Examiner

Alicia M Torres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                              |                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/17/04</u> . | 6) <input type="checkbox"/> Other: _____                                                |

***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. U.S. Pat. Nos. D912,164 and D354,786 are not listed in the PTO-1449.

***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "25" has been used to designate two different parts in Figure 1. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because there is no lead line for reference number "38C" in Figure 1. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet,

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even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The disclosure is objected to because of the following informalities: it appears line 6 of page 6 is incomplete. Appropriate correction is required.

### **DETAILED ACTION**

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Lawson.

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Lawson discloses a knife section (14) for a reciprocating sickle bar for a harvester, said knife section (14) comprising a base (at 30a, Figure 4A), the knife section (14) having a leading end (top edge in figure 4A), mounting holes (23b) in the base for securing the knife section (14) to a support bar, the knife section (14) having a central plane and side edges (unnumbered, see Figures 4A, 5A, or 6) at the base parallel to the central plane at the base, the leading end being of substantially less lateral width perpendicularly to the center plane than a width between the side edges, a pair of cutting edges (35b), one on each side of the knife section (14) and each cutting edge (35b) defining a cutting line that continually moves away from the center plane of the knife section (14) from a portion adjacent the leading end to a junction of a cutting edge with a respective side edge on the respective side of the knife section (14), as per claim 1;

wherein said leading end has a surface transverse to the central plane of the knife section (14), as per claim 2; and

wherein each the cutting edge (35b) is serrated, with outer serration points lying along the cutting line, as per claim 5.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawson in view of Yang et al., hereafter Yang.

The device is disclosed above. However, Lawson fails wherein said side edge is substantially between 40% and 50% of the distance from a base end of the knife section to the leading end thereof.

Yang discloses a similar device wherein said side edge (55) is substantially between 40% and 50% of the distance from a base end (75) of the knife section (5) to the leading end (51) thereof.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the edge of Yang on the knife of Lawson in order to create a snug spacing between knives.

9. Claims 4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawson in view of Ream.

In regards to claim 4, Lawson discloses the device as applied to claim 1 above. However, Lawson fails to disclose wherein said cutting line is part of a circle.

Ream discloses a similar knife section wherein said cutting line (48, 49) is part of a circle.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the curved cutting edge of Ream on the knife of Lawson in order to provide a shearing cutting action.

10. In regards to claims 6-8, Lawson discloses a knife section (14) for a sickle having a leading end and a base with side edges, a cutting edge line (at 35b) extending from the leading

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end to a side edge without reducing the distance from the cutting edge line to a central plane of the knife section (14), as per claim 6;

wherein the cutting line (35b) lies along a smoothly sharpened edge of the sickle sections (14), as per claim 7; and

wherein the cutting edge line (35b) lies along points of cutting edge serrations on the knife section (14), as per claim 8.

However, Lawson fails to disclose a smoothly curved concave cutting edge line, as per claim 6.

Ream discloses a similar knife section (40) including a smoothly curved concave cutting edge line (48, 49), as per claim 6.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the curved cutting edge of Ream on the knife of Lawson in order to provide a shearing cutting action.

### *Conclusion*

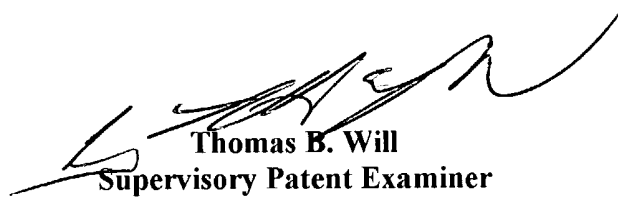
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bouet has been cited as of interest.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

AMT  
August 5, 2004